



Ranking Republican, Senate Agriculture and Rural Economic Development Committee

May 15, 2006

Dear Neighbors,

It's been more than two months since the legislative session ended in Olympia. Since then, several agriculture-related bills passed by the Legislature have been signed into law and are now in effect, and several other ag bills with the governor's signature will go into effect soon.

As the lead Republican on agricultural issues in the Senate, I was very pleased with how agriculture fared in the Legislature this year. Many good ag bills were passed into law. Just as important, no BAD ag bills were approved. Senate Republicans have long supported farmers and Washington's agriculture industry, and we will continue that tradition. Agriculture remains a key driver in our state's economy, and it is an important part of people's lives in many parts of Washington.

This edition of the Ag Alert takes a look at how farmers can take advantage of some of these new laws.

Farmers in Odessa aquifer area get relief from water relinquishment

During this year's session, the Legislature passed ESSB 6151, which I prime-sponsored. This new law aims to conserve water in the Odessa aquifer by allowing groundwater right holders to leave part or all of their water in the aquifer without worrying about losing the unused portion of the water right under the "use it or lose it" water relinquishment law.

With this new law now in effect, farmers relying on the Odessa aquifer might want to know more about this program and how to participate. In fact, I encourage them to sign up. Here is some information that I hope is helpful:

✓ **Should I sign up?** Program participants will receive legal protection from the statutory relinquishment provisions of chapter 90.14 RCW. That's an excellent reason to sign up. Outside of this new Odessa Sub Area program, water rights remain subject to relinquishment when any portion of a water right goes unused for five or more consecutive years and the water right holder can't show a "sufficient cause" for the non-use.

✓ **How do I sign up?** Contact the Department of Ecology's East Regional Office at 509-329-3400. Water Resources Program staff can answer questions and confirm whether your well is within the Odessa Sub Area covered by the legislation.

✓ **Notice required.** Ground water right holders who want program benefits (timeout from relinquishment) need to provide a simple written notice to inform Ecology of the decision to reduce use of a particular ground water right or rights. Ecology is working on simple forms with five blanks, including: name; right number; signature; date; and date participation began.

✓ **Get written notice to DOE within 180 days of your decision to participate.** A water right holder who chooses to participate and get program benefits (timeout from relinquishment) needs to give written notice to Ecology within 180 days of their choice. This gives water right holders who used less than their full water allocation an opportunity to send in the notice following the heavy work season. Note that the notice signature line should be dated no more than 180 days after the date listed for the participant's "choice" to stop using all or part of a water right.

✓ **Keep a record.** It would be smart to make a copy of the notice and request a return receipt upon mailing. When the receipt returns, attach it to your copy and keep the record. This provides additional protection should Ecology lose your notice.

✓ **Will Ecology ask for detailed water use information?** In order to better understand program effects on water use and aquifer conservation, Ecology may ask participants to voluntarily share information about the amount of water conserved or the methods of conservation. This would be on a voluntary basis only, as the bill does not require participants to provide anything beyond the simple notice described above.

✓ **Notice of resumed use.** A program participant who wants to return to full use of the water right can generally do so without fear of relinquishment for non-use that occurs during the period of program participation--up to the bill's expiration date (July 1, 2021). A participant choosing to resume full water use must provide a second notice to Ecology. ESSB 6151 provides that notice of resumed use is not required for seasonal fluctuations in water use that do not result in the full exercise of the water right.

✓ **Covered reductions in water use.** ESSB 6151 recognizes a very broad list of acceptable reasons to reduce water use, including conservation practices, water use efficiencies, short or long-term changes in crop type, crop rotation decisions, economic hardship, pumping costs, infrastructure costs, unsuitability of water, or just a neighborly decision to participate in cooperative efforts to help conserve the aquifer. This "Odessa list," which provides broad protection from relinquishment to encourage conservation, greatly expands the list of statutory excuses for non-use under the water code.

How to take advantage of farm fuel tax exemption

Passage of the farm fuel tax exemption bill (HB 2424) was a big win for farmers in Washington. The tax exemption went into effect on March 6 this year. The use tax exemption applies only on fuel purchases made on or after March 6, 2006. Fuel purchases made prior to this date will have the use tax deducted from fuel tax refunds.

To get an exemption for sales tax on farm fuel, a farmer will need to complete a Department of Revenue form. Go to this link -- <http://dor.wa.gov/> -- and click on the button "Farm Fuel Exemption Special Notice (NEW)" to print the form.

To claim the sales tax exemption on farm fuel, the user must give the seller a completed Farmers' Retail Sales Tax Exemption Certificate at the time of purchase. A sample of the exemption certificate is available on the Department of Revenue's Web site. According to DOR, sellers must document tax exempt sales of red-dyed diesel and aircraft fuel by accepting the Farmers' Retail Sales Tax Exemption Certificate from the buyer and filing it with their business records for five years. If a farmer paid the "special fuel tax" on a purchase of diesel fuel and used the fuel for non-highway purposes, the farmer is eligible for a refund of the special fuel tax. To get a refund, a farmer must submit a request to the Department of Licensing. The address is:

Fuel Tax Section

Washington Department of Licensing

PO Box 9228

Olympia, WA 98507-9228

The phone number for DOL's Fuel Tax Section is (360) 664-1838.

Farmers probably should not assume that DOR will keep track of this for them, as this probably requires extra book-keeping for the department.

Tax exemption for farm equipment, parts goes into effect July 1

Another victory for agriculture this session was passage of HB 2457, which exempts farmers from the sales and use tax on replacement parts for farm machinery and equipment. Unlike the farm fuel tax exemption bill, which went into effect as soon as the governor signed it into law in March, the tax exemption for farm equipment and parts won't go into effect until July 1, 2006.

I've had several inquiries from farmers about how they can take advantage of the farm equipment and parts tax exemption. Diana Roberts, an area extension agronomist with the WSU Extension office in Spokane, recently provided me with helpful answers to many of these questions:

- ✓ The other listed farm equipment is currently only tax-exempt if you buy the whole unit. Parts (for sprayers, tractors, etc.) will be tax-exempt effective July 1, 2006.
- ✓ The forms are available at the Department of Revenue Web site – <http://dor.wa.gov>.
- ✓ A farmer should be able to file one set of forms with the supplier that will be valid for four years.
- ✓ A farmer should not assume that DOR will keep track of the exemptions for him, as this all probably requires extra book-keeping for the department.

L&I's heat stress rule to go into effect June 1

Last month, the Department of Labor and Industries announced it is issuing an emergency rule dealing with heat stress for outdoor workers. The heat stress rule goes into effect June 1. L&I is holding educational meetings throughout the state on how to follow this new rule.

The new L&I rule is in response to the death of a hop worker from heat stroke in the Yakima area last summer. Since then, L&I has pondered implementing a new rule to prevent heat-related illnesses for outdoor workers.

The new emergency rule says that employers must evaluate their workplaces, and if workers are at risk for heat-related illness, then the employer must have a plan in place to train the employees on how to prevent heat stress and how to recognize the symptoms. A "plan in place" means it's part of their safety program and that employees and supervisors have been trained. The new rule doesn't include specific requirements, such as how much water to drink, although medical experts recommend a cup every 15 minutes when doing physical work in hot weather. L&I is providing employers with information and offering training tools, such as laminated cards, online training, videos, and other printed materials. The information and tools are all available on L&I's Web site at <http://www.lni.wa.gov/safety/topics/atoz/heatstress/default.asp>

As a farmer who employs several employees during the summer harvest season, I understand and appreciate the importance of minimizing heat-related problems for workers. But I also understood the concern that many farmers and other employers had about L&I's earlier draft of this new rule. That earlier version would have mandated employers to provide a quart of water per hour to each employee and set up a cooling area for overheated workers. As a recent (Walla Walla) Union-Bulletin editorial noted, "...over the last decade, just 0.03 percent of all industrial insurance claims were attributed to heat-related illnesses. From 1995 through 2004, there were 446 claims. About a third of the claims were from the construction industry while just 7 percent were from agriculture, forestry and related industries...Those numbers don't show an obvious need for government action."

I agree with this point by the editorial. L&I apparently heard the concerns of farmers and other employers whose employees work outdoors during the summer months. The original proposed rule would have been too costly and burdensome to implement. The rule as it now stands is viewed by the Farm Bureau and other groups as an improvement. It focused more on training and education so workers won't be overwhelmed by heat-related illnesses or other related problems.

It's good to see L&I providing information on heat-related illnesses to employers so they and their workers can decide the best way to deal with hotter weather conditions. This issue can best be handled by common sense and good judgment, not by imposing another government regulation.

Below is a link to L&I's Hazard Alert last year, which tells employers how to protect employees from heat stress: <http://www.lni.wa.gov/wisha/hazalerts/heatstress.pdf> . L&I is preparing a new "hot weather advisory," which is similar, and a department spokesperson said it will send it directly to employers in agriculture, construction, and public agencies in a week or so.

Upcoming agriculture-related events:

June 15 -- Lind Field Day/WSU Dryland Research (Contact: Bill Schillinger, 509-235-1933)

June 21 -- Climate Friendly Farming Symposium & Field Day (Contact: Diane Roberts, 509-477-2167)

June 22 -- Palouse Conservation Farm Field Day (Contact: Dave Huggins, 509-335-3379)

June 23 -- Potato Field Day (Contact: Mark Pavek, 509-335-6861)

June 26-28 -- 2006 Pacific Northwest Pre-Harvest Wheat Tour in Eastern Washington (Contact: Dave Shelton, 503-295-0823)

June 29 -- Wilke Farm Field Tour (Contact: Aaron Esser, 509-725-4171)

July 7 -- Potato Cropping Systems Field Day (Contact: H. Collins, 509-786-9228)

Date TBA -- Onion Field Day, L&L Farms, Connell (Contact: Lindsey DuToit, 360-848-6134)

For those interested in WSU's Variety Testing program and events, here is its Web site:
<http://variety.wsu.edu/>.

106A Irv Newhouse Building • PO Box 40409 • Olympia WA 98504-0409
E-mail: Schoesler.mark@leg.wa.gov • Phone: (360) 786-7620